

Article - Environment

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§9-269.

(a) (1) A person who violates any provision of Part III of this subtitle or any rule, regulation, order, or permit adopted or issued under Part III of this subtitle is liable to the State for civil penalties.

(2) These civil penalties are:

(i) A basic civil penalty not exceeding \$10,000; and

(ii) An additional penalty not exceeding \$10,000 a day for each day that the violation continues, up to a maximum of \$50,000.

(3) The State shall recover the civil penalties under this section in a civil action.

(b) (1) In addition to any other remedies available at law or in equity and after an opportunity for a hearing which may be waived in writing by the person accused of a violation, the Department may impose a penalty for violation of any provision of Part III of this subtitle or any regulation, order, or permit adopted or issued under Part III of this subtitle.

(2) The penalty imposed on a person under this subsection shall be:

(i) Up to \$1,000 for each violation, but not exceeding \$50,000 total; and

(ii) Assessed with consideration given to:

1. The willfulness of the violation, the extent to which the existence of the violation was known to but uncorrected by the violator, and the extent to which the violator exercised reasonable care;

2. Any actual harm to the environment or to human health, including injury to or impairment of the use of the waters of the State or the natural resources of the State;

3. The cost of cleanup and the cost of restoration of natural resources;

4. The nature and degree of injury to or interference with general welfare, health, and property;

5. The extent to which the location of the violation, including location near waters of the State or areas of human population, creates the potential for harm to the environment or to human health or safety;

6. The available technology and economic reasonableness of controlling, reducing, or eliminating the violation; and

7. The extent to which the current violation is part of a recurrent pattern of the same or similar type of violation committed by the violator.

(3) Each day a violation occurs is a separate violation under this subsection.

(4) Any penalty imposed under this subsection is payable to the State and collectible in any manner provided by law for the collection of debts.

(5) If any person who is liable to pay a penalty imposed under this subsection fails to pay it after demand, the amount, together with interest and any costs that may accrue, shall be:

(i) A lien in favor of the State on any property, real or personal, of the person; and

(ii) Recorded in the office of the clerk of court for the county in which the property is located.

(6) Any penalty collected under this subsection shall be placed in the Maryland Clean Water Fund under § 9–320 of this title.

(c) (1) Except as provided in paragraph (3) of this subsection, in addition to any other penalties set forth in this section, if any sewage sludge utilizer violates the terms of the permit by any action or inaction of the utilizer that results in the return of the sewage sludge to the generator, the utilizer is liable to the State for civil penalties.

(2) The civil penalty imposed under this subsection may not exceed \$100 for each wet ton of sewage sludge returned to the generator.

(3) The provisions of this subsection do not apply if the violation is not caused by any action or inaction of the utilizer.

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